

## CHAPTER 3E

### FUEL TAXES

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#### HIGHLIGHTS

- Purpose To maintain state and local public highways and roads and certain airports.
- Tax Base Fuels used to propel motor vehicles and aircraft.
- Tax Rate

|                       |                            |
|-----------------------|----------------------------|
| Gasoline Tax          | \$0.18 per gallon          |
| Aircraft Jet Fuel Tax | \$0.02 per gallon          |
| Diesel Fuel Tax       | \$0.18 per gallon          |
| Interstate User Tax   | \$0.437 per gallon         |
| Use Fuel Tax          | \$0.06 - \$0.18 per gallon |
- Revenue

|                | <u>Gasoline Tax*</u> | <u>Diesel and Use Fuel Tax**</u> |
|----------------|----------------------|----------------------------------|
| 2007-08        | \$2.83 billion       | \$592 million                    |
| 2008-09 (Est.) | \$2.73 billion       | \$556 million                    |
| 2009-10 (Est.) | \$2.69 billion       | \$553 million                    |
- Administration Board of Equalization (BOE)

\*Including aircraft jet fuel

\*\*The two revenue streams are not currently tracked separately

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#### 1. TAX OVERVIEW

California's fuel taxes fall into three distinct categories: The **gasoline tax**, **diesel fuel tax**, and the **use fuel tax**.

The gasoline tax, formally known as the Motor Vehicle Fuel Tax, is imposed on the removal of motor vehicle fuel from a terminal rack or a refinery rack into a truck, trailer, or railroad car.

Motor vehicle fuels subject to the gasoline tax include gasoline, aviation gasoline, blends of gasoline and alcohol containing more than 15% gasoline, and any inflammable liquid used or usable for propelling motor vehicles operated by the explosion type of engine. Fuels not subject to the gasoline tax include diesel fuel (taxed under the diesel fuel tax),

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kerosene, liquefied petroleum gas, ethanol, methanol and natural gas in liquid or gaseous form (taxed under the use fuel tax).

The gasoline tax does not apply to inflammable liquids that do not contain gasoline or natural gasoline and that are specifically manufactured, distributed, and used for racing motor vehicles at a racetrack.

The **aircraft jet fuel tax**, which is also part of the Motor Vehicle Fuel Tax Law, is imposed on sales of aircraft jet fuel by an aircraft jet fuel dealer to an aircraft jet fuel user. Certified air common carriers, aircraft manufacturers or repairers, and the armed forces of the U.S. are not included in the definition of "aircraft jet fuel users" and are therefore not subject to this tax. In practice, the aircraft jet fuel tax is imposed primarily on nonscheduled airline carriers (private jets and private mail delivery carriers) and helicopters.

The **diesel fuel tax** is imposed under the Diesel Fuel Tax Law on the removal of diesel fuel from a terminal rack or a refinery rack into a truck, trailer, or railroad car. Diesel fuel means any liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. Dyed diesel fuel, which is intended solely for exempt off-highway use, is not subject to the tax.

Federal legislation passed in October 2005 changed the administration of the clear diesel fuel tax by requiring persons to prepay the tax on the quantity of diesel fuel used off-highway and then file a claim for refund of the diesel fuel tax based upon the number of gallons purchased that was used for off-highway purposes. California has not conformed to this change in federal tax law. Under California law, the purchaser estimates the percentage of off-highway use and does not pay tax on such estimated amount. If the estimate is overstated, the purchaser must file for and pay the amount of tax on the diesel fuel not used for off-highway purposes.

California has participated in the International Fuel Tax Agreement (IFTA) since January 1, 1996. Under IFTA, interstate truckers are required to submit quarterly reports detailing the number of gallons of fuel they use in each state or Canadian province. Each trucker is required to file his or her report with a single home (base) state and is taxed based on where the trucker consumes fuel.

Interstate truckers who purchase their diesel fuel outside California for use in-state must pay an additional tax (over and above the IFTA rate) that is equivalent to the statewide sales tax rate imposed on in-state purchases of diesel fuel. Conversely, interstate truckers are allowed a refund or credit on sales tax they pay when they purchase diesel fuel in-state but use it out-of-state. The "equivalent sales tax rate" imposed on interstate truckers is set annually by the BOE and is calculated based on the average retail price per gallon of diesel fuel in California and the combined average California state and local sales and use tax rate.

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The **use fuel tax** is imposed on vendors and users of motor vehicle fuels that are not taxed under either the gasoline or diesel fuel tax, such as liquefied petroleum gas, ethanol, methanol and natural gas (both liquid and gaseous) for use on state highways.

Both the state gasoline tax and the state aircraft jet fuel tax are part of the state sales tax base. Conversely, neither the state diesel fuel tax nor the state use fuel tax is part of the state sales tax base.

## **2. TAX RATES**

The State of California taxes various fuels at the rates listed below:

| <u>Fuel</u>                           | <u>Rate (per gallon,<br/>unless otherwise specified)</u> |
|---------------------------------------|--|
| Gasoline, including aviation gasoline | \$0.18   |
| Aircraft Jet Fuel                     | \$0.02   |
| Diesel and 100% Biodiesel             | \$0.18   |
| Interstate Users (IFTA members)       | \$0.437  |
| Liquefied Petroleum Gas (LPG)         | \$0.06   |
| Liquefied Natural Gas (LNG)           | \$0.06   |
| Compressed Natural Gas (CNG)          | \$0.07 per 100 feet                                      |
| Ethanol and Methanol                  | \$0.09   |
| Kerosene                              | \$0.18   |

Local transit systems, certain common carriers, public school districts, and community college districts are exempt from diesel and use fuel taxes but are assessed at a rate of \$0.01 per gallon on their fuel purchases. The owner or operator of a vehicle propelled by liquefied petroleum gas, liquid natural gas, or compressed natural gas may pay an annual flat rate fuel tax based on the type or weight of the vehicle instead of the per gallon rate.

**State/Federal Rate Linkage.** The Federal government also imposes tax on various fuels. The California gasoline, diesel, and certain use fuel tax rates are tied by statute to comparable federal taxes in order to maintain a minimum level of state and federal fuel taxation. The state/federal linked rate for gasoline taxes must be maintained at a minimum of \$0.27 per gallon. Therefore, if the federal gasoline tax (which currently is \$0.184 per gallon) were reduced below a rate of \$0.09 per gallon and federal financial allocations to California were also reduced, the state gasoline tax would automatically increase so that the total of both Federal and state taxes would equal \$0.27 per gallon.

The same type of linkage is true for both diesel and use fuel taxes that are imposed at a state rate of \$0.18 per gallon. Currently, the only use fuel product taxed at \$0.18 per gallon and subject to the state/federal linkage is kerosene fuel. The state/federal linked rate for diesel and kerosene tax rates subject to the state/federal linkage is \$0.244 per gallon. If the federal diesel and kerosene fuel tax were reduced below a rate of \$0.15 per gallon and federal financial allocations to California were also reduced, the state diesel

and kerosene taxes would automatically increase so that the total of both Federal and state taxes would equal \$0.33 per gallon.

### **3. EXEMPTIONS AND/OR REFUNDS**

Excise tax exemptions are allowed for any fuel that is:

- Exported out of state;
- Sold to certain consulate officers and employees;
- Used off public roads (so-called off-highway use); and
- Used for certain agricultural and/or construction equipment.

An exemption is also allowed for dyed diesel fuel. In this case, the fuel is dyed because it is intended for exempt use.

Furthermore, a partial excise tax exemption applies to certain bus operations. The following bus operations are subject to a tax of \$0.01 per gallon on the diesel fuel used:

- Transit districts, transit authorities, or cities owning and operating local transit systems;
- Common carriers operating exclusively within a city limit and not subject to the jurisdiction of the Public Utilities Commission (PUC);
- Passenger stage corporations under the jurisdiction of the PUC, when used on routes of no greater than 50 miles; and
- Public school districts, county superintendents of schools, or community college districts.

Excise tax refunds are given to anyone who pays fuel taxes and subsequently uses the tax paid fuel in an exempt manner.

### **4. REVENUE**

Revenues from the Motor Vehicle Fuel Tax, Diesel Fuel Tax, and the Use Fuel Tax accrue to the State Transportation Fund, a special fund which provides the major source of funds for maintaining, replacing, and constructing state highway and transportation facilities. Revenues from jet fuel and aviation gasoline are transferred to the Aeronautics Account for use at certain airports.

Through various statutory allocation formulas, just over one-third of the revenue from all three taxes is shared with local governments; just under two-thirds remains with the state.

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Taxes imposed under the Motor Vehicle Fuel Tax Law generated \$2.8 billion in fiscal year (FY) 2007-08, the vast majority of which accrued from motor vehicle fuel taxes. Typically, only a few million dollars per year results from imposition of aircraft jet fuel taxes. Both taxes collectively are expected to raise \$2.7 billion in FY 2008-09 and \$2.7 billion in FY 2009-10.

The diesel fuel tax and use fuel tax generated \$592 million in FY 2007-08 and are expected to raise \$556 million in FY 2008-09. Diesel fuel tax and use fuel tax revenues are expected to drop to \$553 million by FY 2009-10. At present, the two revenue streams are not currently tracked separately.

Together, all of these Highway User's Taxes generated 3.0% of total state revenues during FY 2007-08. As reflected above and in accordance with the State Constitution, all transportation tax revenue is dedicated for transportation purposes.

#### **5. ADMINISTRATION**

The BOE administers all motor vehicle fuel taxes; however, the State Controller processes gasoline tax payments and refunds.

The aircraft jet fuel tax is imposed upon every aircraft jet fuel dealer for each gallon of such fuel sold or used. Dealers are licensed and required to pay the tax monthly to the California BOE.

The gasoline tax and diesel fuel tax is paid by suppliers at the time of removal of the fuel at the refinery rack or terminal rack. The tax is included in the selling price to the ultimate purchaser unless the ultimate purchaser provides an exemption certificate for the number of gallons estimated to be used off-highway. Suppliers are licensed and pay the tax monthly to BOE.

Interstate truckers report and pay their diesel tax liability through IFTA returns on a quarterly basis. If California is not the trucker's base state, the funds are transferred to California by the responsible IFTA member state or Canadian province.

The use fuel tax is imposed on the user but collected by the vendor who sells the fuel. A permit is required of the vendor and user. Retailers are required to collect the use fuel tax at the time they sell the fuel to persons who use the fuel. Retailers and users with use fuel permits may claim credit for the tax paid to vendors when they file their use fuel tax returns. The tax may be collected at quarterly intervals designated by BOE.

#### **6. CODE**

Revenue and Taxation Code Sections 7301-8526 (Gasoline Tax)

Revenue and Taxation Code Sections 8601-9355 (Use Fuel Tax)

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Revenue and Taxation Code Sections 9401-9433, 60130 (Fuel Tax and International Fuel Tax Agreements)

Revenue and Taxation Code Sections 60001-60708 (Diesel Fuel Tax)

California Constitution, Article XIX, Section 1